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January 4, 2022

VIA ECF

The Honorable Judge Gary R. Brown
United States District Court, E.D.N.Y.
100 Federal Plaza
Central Islip, New York 11722

RE: Hernandez v. The Money Source (17-CV-6919) (GRB)
MLLG File No. 153-2021

Dear Honorable Judge Brown:

We represent the defendant The Money Source (“TMS”). We write because, subsequent to this Court’s December 6, 2021 Order permitting Plaintiffs “to add an updated report by Plaintiffs’ economist[.]” this Court issued two orders, permitting TMS: (i) to propound ten interrogatories to Plaintiffs “regarding their 2018 to present earnings and efforts to mitigate,” and (ii) depose Plaintiffs’ economist, Dr. Steven Shapiro, regarding his “updated” report. (*See* Orders of December 14 and 17, 2021). In accordance with the Court’s Orders, TMS propounded interrogatories on December 21, 2021 to be responded to by January 3, 2022, and scheduled the deposition of Plaintiffs’ economist for Wednesday, January 5, 2022 at 10:00 a.m.

Yesterday, Plaintiff’s counsel claimed that they “need a few more days to respond to your interrogatories and will provide them on or before Thursday.” (Ex. 1 hereto). Conveniently, Thursday, January 6, 2022, is the day after TMS is deposing Dr. Shapiro regarding his December 2021 report. Since that report raises an entirely new theory upon which Plaintiffs’ damages are based, the report, in itself, is grossly prejudicial at this late date, but Plaintiffs’ additional failure to timely supply their interrogatory answers prior to Dr. Shapiro’s deposition is further prejudice. Plaintiffs’ claim that they cannot supply these responses prior to Dr. Shapiro’s deposition is clearly an attempt to shield Dr. Shapiro from questions regarding facts pertaining to Plaintiffs’ earnings and efforts to mitigate.

TMS should have Plaintiffs’ answers to its interrogatories prior to Dr. Shapiro’s deposition, or Dr. Shapiro’s testimony and report should be precluded at trial since TMS will not be able to adequately depose Dr. Shapiro on the eve of trial. Plaintiffs are simply playing games which should not be countenanced by the Court. Accordingly, we respectfully request this Court to compel Plaintiffs to supply those answers by today, January 4, 2022 at 5:00 p.m.

Respectfully submitted,

Joseph M. Labuda

Joseph M. Labuda

cc: all counsel – via ECF

EXHIBIT “1”

Michael Mule

From: Lauren Goldberg <lg@lgoldberglaw.com>
Sent: Monday, January 3, 2022 3:27 PM
To: JOHN GIONIS; Joshua Feldman; Frank Giglio; robert goner; Michael Mule; Joseph Labuda
Subject: Plaintiffs' Responses to Defendant's Interrogatories

Follow Up Flag: Follow up
Flag Status: Flagged

Plaintiffs need a few more days to respond to your interrogatories and will provide them on or before Thursday.

Lauren

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Please Note My New Address

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